

CONFERENCE COMMITTEE SUBSTITUTE #3

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 36

AN ACT

To repeal sections 260.247, 260.273, 278.258, 444.770, 444.772, 444.778, and 643.078, RSMo, and to enact in lieu thereof fourteen new sections relating to environmental regulation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 260.247, 260.273, 278.258, 444.770,
2 444.772, 444.778, and 643.078, RSMo, are repealed and fourteen
3 new sections enacted in lieu thereof, to be known as sections
4 260.217, 260.219, 260.247, 260.273, 278.258, 319.115, 444.770,
5 444.772, 444.778, 640.014, 640.018, 643.078, 1, and 2, to read as
6 follows:

7 260.217. No solid waste processing facility shall store
8 solid waste for longer than forty-eight hours on-site over any
9 weekend, or for more than seventy-two hours in the event of a
10 state-observed holiday weekend.

11 260.219. No local government or political subdivision shall
12 provide commercial solid waste collection services in

1 unincorporated areas outside its boundaries unless no other
2 service is available. This section shall not include hazardous
3 waste, recovered materials, or solid waste that is processed at a
4 resource recovery facility or material recovery facility before
5 it is transferred to a sanitary landfill or transfer station.

6 260.247. 1. Any [city] local government or political
7 subdivision which annexes an area or enters into or expands solid
8 waste collection services into an area where the collection of
9 solid waste is presently being provided by one or more private
10 entities shall notify the private entity or entities of its
11 intent to provide solid waste collection services in the area by
12 certified mail.

13 2. A [city] local government or political subdivision shall
14 not commence solid waste collection in such area for at least two
15 years from the effective date of the annexation or at least two
16 years from the effective date of the notice that the [city] local
17 government or political subdivision intends to enter into the
18 business of solid waste collection or to expand existing solid
19 waste collection services into the area, unless the city
20 contracts with the private entity or entities to continue such
21 services for that period. If the local government or political
22 subdivision has not engaged in or started the process to engage
23 in the business of solid waste collection services or expand
24 existing solid waste collection services in the area within the
25 two years of notification, then the political subdivision shall
26 again notify private entity or entities pursuant to subsection 1
27 of this section.

28 3. If the services to be provided under a contract with the

1 [city] local government or political subdivision pursuant to
2 subsection 2 of this section are substantially the same as the
3 services rendered in the area prior to the decision of the [city]
4 local government or political subdivision to annex the area or to
5 enter into or expand its solid waste collection services into the
6 area, the amount paid by the [city] local government or political
7 subdivision shall be at least equal to the amount the private
8 entity or entities would have received for providing such
9 services during that period.

10 4. Any private entity or entities which provide collection
11 service in the area which the [city] local government or
12 political subdivision has decided to annex or enter into or
13 expand its solid waste collection services into shall make
14 available upon written request by the [city] local government or
15 political subdivision not later than thirty days following such
16 request, all information in its possession or control which
17 pertains to its activity in the area necessary for the [city]
18 local government or political subdivision to determine the nature
19 and scope of the potential contract.

20 5. The provisions of this section shall apply to private
21 entities that service fifty or more residential accounts or
22 fifteen or more commercial accounts in the area in question.

23 260.273. 1. Any person purchasing a new tire may present
24 to the seller the used tire or remains of such used tire for
25 which the new tire purchased is to replace.

26 2. A fee for each new tire sold at retail shall be imposed
27 on any person engaging in the business of making retail sales of
28 new tires within this state. The fee shall be charged by the

1 retailer to the person who purchases a tire for use and not for
2 resale. Such fee shall be imposed at the rate of fifty cents for
3 each new tire sold. Such fee shall be added to the total cost to
4 the purchaser at retail after all applicable sales taxes on the
5 tires have been computed. The fee imposed, less six percent of
6 fees collected, which shall be retained by the tire retailer as
7 collection costs, shall be paid to the department of revenue in
8 the form and manner required by the department of revenue and
9 shall include the total number of new tires sold during the
10 preceding month. The department of revenue shall promulgate
11 rules and regulations necessary to administer the fee collection
12 and enforcement. The terms "sold at retail" and "retail sales"
13 do not include the sale of new tires to a person solely for the
14 purpose of resale, if the subsequent retail sale in this state is
15 to the ultimate consumer and is subject to the fee.

16 3. The department of revenue shall administer, collect and
17 enforce the fee authorized pursuant to this section pursuant to
18 the same procedures used in the administration, collection and
19 enforcement of the general state sales and use tax imposed
20 pursuant to chapter 144, RSMo, except as provided in this
21 section. The proceeds of the new tire fee, less four percent of
22 the proceeds, which shall be retained by the department of
23 revenue as collection costs, shall be transferred by the
24 department of revenue into an appropriate subaccount of the solid
25 waste management fund, created pursuant to section 260.330.

26 4. Up to five percent of the revenue available may be
27 allocated, upon appropriation, to the department of natural
28 resources to be used cooperatively with the department of

1 elementary and secondary education for the purposes of developing
2 educational programs and curriculum pursuant to section 260.342.

3 5. Up to twenty-five percent of the moneys received
4 pursuant to this section may, upon appropriation, be used to
5 administer the programs imposed by this section. Up to five
6 percent of the moneys received under this section may, upon
7 appropriation, be used for the grants authorized in subdivision
8 (2) of subsection 6 of this section and authorized in section
9 260.274. All remaining moneys shall be allocated, upon
10 appropriation, for the projects authorized in section 260.276.

11 6. The department shall promulgate, by rule, a statewide
12 plan for the use of moneys received pursuant to this section to
13 accomplish the following:

14 (1) Removal of waste tires from illegal tire dumps;

15 (2) Providing grants to persons that will use products
16 derived from waste tires, or used waste tires as a fuel or fuel
17 supplement; and

18 (3) Resource recovery activities conducted by the
19 department pursuant to section 260.276.

20 7. The fee imposed in subsection 2 of this section shall
21 terminate January 1, [2004] 2009.

22 278.258. 1. After a watershed subdistrict has been
23 organized and the organization tax pursuant to section 278.250
24 has been levied, any county in the subdistrict which has not
25 adopted the annual tax pursuant to section 278.250 may detach
26 from the subdistrict upon approval of such detachment of a
27 majority of the qualified voters [residing] voting on the
28 proposed detachment within such subdistrict in such county;

1 however, before such detachment the watershed district trustees
2 shall make arrangements for the county to pay any outstanding
3 indebtedness for services or works of improvement rendered by the
4 subdistrict in such county.

5 2. Following the entry in the official minutes of the
6 trustees of the watershed district of the detachment of the
7 county, the watershed district trustees shall certify this fact
8 on a separate form, authentic copies of which shall be recorded
9 with the recorder of deeds in each county in which any portion of
10 the watershed subdistrict lies and with the state soil and water
11 districts commission.

12 319.115. 1. No person shall undertake the installation,
13 repair, or removal, of an underground storage tank unless he or
14 she has on file with the department of agriculture, weights and
15 measures division the following:

16 (1) Documentation showing that the person has general
17 liability insurance, pollution liability insurance, and
18 professional liability insurance, or net worth of not less than
19 one million dollars; and

20 (2) Documentation showing that the person complies with the
21 applicable sections of Title 29 of the Code of Federal
22 Regulations general labor, safety, and health standards, which
23 include Hazardous Waste Operations Training, Emergency Response
24 Training, Confined Space Training, Protective Equipment Training,
25 and Respiratory Protection Training.

26 2. No person shall undertake site assessment or corrective
27 action in response to a release from an underground storage tank
28 unless he or she has on file with the department of agriculture,

1 weights and measures division the following:

2 (1) Documentation showing that the person has general
3 liability insurance, pollution liability insurance, and
4 professional liability insurance, or net worth of not less than
5 one million dollars; and

6 (2) Documentation showing that the person complies with the
7 applicable sections of Title 29 of the Code of Federal
8 Regulations general labor, safety, and health standards, which
9 include Hazardous Waste Operations Training, Emergency Response
10 Training, Confined Space Training, Protective Equipment Training,
11 and Respiratory Protection Training.

12 3. No person shall be entitled to receive any payments,
13 reimbursements, or remuneration of any kind from the petroleum
14 storage tank insurance fund unless the work for which payment is
15 requested was performed by a person who has met the requirements
16 of subsections 1 and 2 of this section.

17 444.770. 1. It shall be unlawful for any operator to
18 engage in surface mining without first obtaining from the
19 commission a permit to do so, in such form as is hereinafter
20 provided, including any operator involved in any sand and gravel
21 mining operation, except that no permit from the commission shall
22 be required where the annual tonnage of sand and gravel mined for
23 sale or use by such operator in total from all such operator's
24 in-stream sand and gravel mines is less than [five] two thousand
25 tons and such operator does not engage in any form of surface
26 mining other than in-stream sand and gravel mining. The
27 department may establish excavation standards for operators of
28 in-stream sand and gravel mines, excluding landowners or their

1 contractors who conduct in-stream sand and gravel mining for the
2 landowner's personal use, that are exempt from permitting
3 requirements pursuant to this subsection. Such excavation
4 standards shall not be more stringent than standards required of
5 operators required to obtain permits and such excavation
6 standards will be developed in consultation with all interested
7 parties. If an operator that is not required to obtain a permit
8 violates such excavation standards, the commission may require
9 the operator to apply for a permit to continue operating at the
10 site of such violation.

11 2. Sections 444.760 to 444.790 shall apply only to those
12 areas which are opened on or after January 1, 1972, or to the
13 extended portion of affected areas extended after that date. The
14 effective date of this section for minerals not previously
15 covered under the provisions of sections 444.760 to 444.790 shall
16 be August 28, 1990.

17 3. All surface mining operations where land is affected
18 after September 28, 1971, which are under the control of any
19 government agency whose regulations are equal to or greater than
20 those imposed by section 444.774, are not subject to the further
21 provisions of sections 444.760 to 444.790, except that such
22 operations shall be registered with the land reclamation
23 commission.

24 4. Any portion of a surface mining operation which is
25 subject to the provisions of sections 260.200 to 260.245, RSMo,
26 and the regulations promulgated thereunder, shall not be subject
27 to the provisions of sections 444.760 to 444.790, and any bonds
28 or portions thereof applicable to such operations shall be

1 promptly released by the commission, and the associated permits
2 canceled by the commission upon presentation to it of
3 satisfactory evidence that the operator has received a permit
4 pursuant to section 260.205, RSMo, and the regulations
5 promulgated thereunder. Any land reclamation bond associated
6 with such released permits shall be retained by the commission
7 until presentation to the commission of satisfactory evidence
8 that:

9 (1) The operator has complied with sections 260.226 and
10 260.227, RSMo, and the regulations promulgated thereunder,
11 pertaining to closure and postclosure plans and financial
12 assurance instruments; and

13 (2) The operator has commenced operation of the solid waste
14 disposal area or sanitary landfill as those terms are defined in
15 chapter 260, RSMo.

16 5. Notwithstanding the provisions of subsection 1 of this
17 section, any political subdivision which uses its own personnel
18 and equipment or any private individual for personal use may
19 conduct or contract for in-stream sand and gravel operations
20 without obtaining from the commission a permit to conduct such an
21 activity.

22 444.772. 1. Except as provided in section 444.770, any
23 operator desiring to engage in surface mining shall make written
24 application to the director for a permit.

25 2. Application for permit shall be made on a form
26 prescribed by the commission and shall include:

27 (1) The name of all persons with any interest in the land
28 to be mined;

1 (2) The source of the applicant's legal right to mine the
2 land affected by the permit;

3 (3) The permanent and temporary post office address of the
4 applicant;

5 (4) Whether the applicant or any person associated with the
6 applicant holds or has held any other permits pursuant to
7 sections 444.500 to 444.790, and an identification of such
8 permits;

9 (5) The written consent of the applicant and any other
10 persons necessary to grant access to the commission or the
11 director to the area of land affected under application from the
12 date of application until the expiration of any permit granted
13 under the application and thereafter for such time as is
14 necessary to assure compliance with all provisions of sections
15 444.500 to 444.790 or any rule or regulation promulgated pursuant
16 to them. Permit applications submitted by operators who mine an
17 annual tonnage of less than ten thousand tons shall be required
18 to include written consent from the operator to grant access to
19 the commission or the director to the area of land affected;

20 (6) A description of the tract or tracts of land and the
21 estimated number of acres thereof to be affected by the surface
22 mining of the applicant for the next succeeding twelve months;
23 and

24 (7) Such other information that the commission may require
25 as such information applies to land reclamation.

26 3. The application for a permit shall be accompanied by a
27 map in a scale and form specified by the commission by
28 regulation.

1 4. The application shall be accompanied by a bond, security
2 or certificate meeting the requirements of section 444.778 and a
3 permit fee approved by the commission not to exceed six hundred
4 dollars. The commission may also require a fee for each site
5 listed on a permit not to exceed three hundred dollars for each
6 site. If mining operations are not conducted at a site for six
7 months or more during any year, the fee for such site for that
8 year shall be reduced by fifty percent. The commission may also
9 require a fee for each acre bonded by the operator pursuant to
10 section 444.778 not to exceed ten dollars per acre. If such fee
11 is assessed, the per-acre fee on all acres bonded by a single
12 operator that exceed a total of one hundred acres shall be
13 reduced by fifty percent. In no case shall the total fee for any
14 permit be more than two thousand five hundred dollars. Permit
15 and renewal fees shall be established by rule and shall be set at
16 levels that recover the cost of administering and enforcing
17 sections 444.760 to 444.790, making allowances for grants and
18 other sources of funds. The director shall submit a report to
19 the commission and the public each year that describes the number
20 of employees and the activities performed the previous calendar
21 year to administer sections 444.760 to 444.790. For any operator
22 of a sand and gravel mining operation where the annual tonnage of
23 sand and gravel mined by such operator is less than [five] two
24 thousand tons and such operator is not exempt from permitting
25 requirements pursuant to section 444.770, the total cost of
26 submitting an application shall be three hundred dollars. The
27 issued permit shall be valid from the date of its issuance until
28 the date specified in the mine plan unless sooner revoked or

1 suspended as provided in sections 444.760 to 444.790.

2 5. An operator desiring to have his or her permit amended
3 to cover additional land may file an amended application with the
4 commission. Upon receipt of the amended application, and such
5 additional fee and bond as may be required pursuant to the
6 provisions of sections 444.760 to 444.790, the director shall, if
7 the applicant complies with all applicable regulatory
8 requirements, issue an amendment to the original permit covering
9 the additional land described in the amended application.

10 6. An operation may withdraw any land covered by a permit,
11 excepting affected land, by notifying the commission thereof, in
12 which case the penalty of the bond or security filed by the
13 operator pursuant to the provisions of sections 444.760 to
14 444.790 shall be reduced proportionately.

15 7. Where mining or reclamation operations on acreage for
16 which a permit has been issued have not been completed, the
17 permit shall be renewed. The operator shall submit a permit
18 renewal form furnished by the director for an additional permit
19 year and pay a fee equal to an application fee calculated
20 pursuant to subsection 4 of this section, but in no case shall
21 the renewal fee for any operator be more than two thousand five
22 hundred dollars. For any operator involved in any sand
23 and gravel mining operation where the annual tonnage of sand
24 and gravel mined by such operator is less than [five] two
25 thousand tons and such operator is not exempt from permitting
26 requirements pursuant to section 444.770, the permit as to such
27 acreage shall be renewed by applying on a permit renewal form
28 furnished by the director for an additional permit year and

1 payment of a fee of three hundred dollars. Upon receipt of the
2 completed permit renewal form and fee from the operator, the
3 director shall approve the renewal. With approval of the
4 director and operator, the permit renewal may be extended for a
5 portion of an additional year with a corresponding prorating of
6 the renewal fee.

7 8. Where one operator succeeds another at any uncompleted
8 operation, either by sale, assignment, lease or otherwise, the
9 commission may release the first operator from all liability
10 pursuant to sections 444.760 to 444.790 as to that particular
11 operation if both operators have been issued a permit and have
12 otherwise complied with the requirements of sections 444.760 to
13 444.790 and the successor operator assumes as part of his or her
14 obligation pursuant to sections 444.760 to 444.790 all liability
15 for the reclamation of the area of land affected by the former
16 operator.

17 9. The application for a permit shall be accompanied by a
18 plan of reclamation that meets the requirements of sections
19 444.760 to 444.790 and the rules and regulations promulgated
20 pursuant thereto, and shall contain a verified statement by the
21 operator setting forth the proposed method of operation,
22 reclamation, and a conservation plan for the affected area
23 including approximate dates and time of completion, and stating
24 that the operation will meet the requirements of sections 444.760
25 to 444.790, and any rule or regulation promulgated pursuant to
26 them.

27 10. At the time that a permit application is deemed
28 complete by the director, the operator shall publish a notice of

1 intent to operate a surface mine in any newspaper qualified
2 pursuant to section 493.050, RSMo, to publish legal notices in
3 any county where the land is located. If the director does not
4 respond to a permit application within forty-five calendar days,
5 the application shall be deemed to be complete. Notice in the
6 newspaper shall be posted once a week for four consecutive weeks
7 beginning no more than ten days after the application is deemed
8 complete. The operator shall also send notice of intent to
9 operate a surface mine by certified mail to the governing body of
10 the counties or cities in which the proposed area is located, and
11 to the last known addresses of all record landowners of
12 contiguous real property or real property located adjacent to the
13 proposed mine plan area. The notices shall include the name and
14 address of the operator, a legal description consisting of
15 county, section, township and range, the number of acres
16 involved, a statement that the operator plans to mine a specified
17 mineral during a specified time, and the address of the
18 commission. The notices shall also contain a statement that any
19 person with a direct, personal interest in one or more of the
20 factors the commission may consider in issuing a permit may
21 request a public meeting, a public hearing or file written
22 comments to the director no later than fifteen days following the
23 final public notice publication date.

24 11. The commission may approve a permit application or
25 permit amendment whose operation or reclamation plan deviates
26 from the requirements of sections 444.760 to 444.790 if it can be
27 demonstrated by the operator that the conditions present at the
28 surface mining location warrant an exception. The criteria

1 accepted for consideration when evaluating the merits of an
2 exception or variance to the requirements of sections 444.760 to
3 444.790 shall be established by regulations.

4 12. Fees imposed pursuant to this section shall become
5 effective August 28, 2001, and shall expire on December 31, 2007.
6 No other provisions of this section shall expire.

7 444.778. 1. Any bond herein provided to be filed with the
8 commission by the operator shall be in such form as the director
9 prescribes, payable to the state of Missouri, conditioned that
10 the operator shall faithfully perform all requirements of
11 sections 444.760 to 444.790 and comply with all rules of the
12 commission made in accordance with the provisions of sections
13 444.760 to 444.790. The bond shall be signed by the operator as
14 principal, and by a good and sufficient corporate surety,
15 licensed to do business in this state, as surety. The operator
16 shall file with the commission a bond payable to the state of
17 Missouri with surety in the penal sum of eight thousand dollars
18 for each permit up to eight acres and five hundred dollars for
19 each acre thereafter that is to be mined. In addition, for each
20 acre or portion thereof where topsoil has been removed from the
21 site, an additional bond of four thousand five hundred dollars
22 per acre shall be posted with the commission for each acre or
23 portion thereof which will be revegetated, conditioned upon the
24 faithful performance of the requirements set forth in sections
25 444.760 to 444.790 and of the rules and regulations of the
26 commission. In lieu of a surety bond, the operator may furnish a
27 bond secured by a personal certificate of deposit or irrevocable
28 letter of credit in an amount equal to that of the required

1 surety bond on conditions as prescribed by the commission. For
2 any operator involved in any sand and gravel mining operation
3 where the annual tonnage of sand and gravel mined by such
4 operator is less than [five] two thousand tons and such operator
5 is not exempt from permitting requirements pursuant to section
6 444.770, such operator shall deposit a bond with the commission
7 in the penal sum of five hundred dollars for each acre or portion
8 thereof of land proposed thereafter by the operator to be
9 subjected to surface mining for the mining permit year.

10 2. The bond shall remain in effect until the mined acreages
11 have been reclaimed, approved and released by the commission.
12 Forfeiture of such bond may be cause for denial of future permit
13 applications.

14 3. A bond filed as above prescribed shall not be canceled
15 by the surety except after not less than ninety days' notice to
16 the commission and, in any case, not as to the acreage affected
17 prior to the expiration of the notice period.

18 4. If the license to do business in this state of any
19 surety upon a bond filed with the commission pursuant to sections
20 444.760 to 444.790 shall be suspended, revoked, or canceled, or
21 if the surety should act to cancel the bond, the operator, within
22 sixty days after receiving notice thereof from the commission,
23 shall substitute for such surety a good and sufficient corporate
24 surety licensed to do business in this state or a bond secured by
25 a certificate of deposit. Upon failure of the operator to make
26 substitution of surety as herein provided, the commission shall
27 have the right to suspend the permit of the operator until such
28 substitution has been made.

1 5. The commission shall give written notice to the operator
2 of any violation of sections 444.760 to 444.790 or noncompliance
3 with any of the rules and regulations promulgated by the
4 commission hereunder and if corrective measures, approved by the
5 commission, are not commenced within ninety days, the commission
6 may proceed as provided in section 444.782 to request forfeiture
7 of the bond.

8 6. The commission shall have the power to reclaim, in
9 keeping with the provisions of sections 444.760 to 444.790, any
10 affected land with respect to which a bond has been forfeited.
11 The commission and any other agency and any contractor under a
12 contract with the commission shall have reasonable right of
13 access to the land affected to carry out such reclamation. The
14 operator shall also have the right of access to the land affected
15 to carry out such reclamation and shall notify the landowner on
16 lease holdings that such right exists.

17 7. Whenever an operator shall have completed all
18 requirements pursuant to the provisions of sections 444.760 to
19 444.790 as to any affected land, he or she shall notify the
20 commission thereof. If the commission determines that the
21 operator has completed the requirements, the commission shall
22 release the operator from further obligations regarding the
23 affected land and the penalty of the bond shall be reduced
24 proportionately.

25 640.014. 1. All provisions of the law to the contrary
26 notwithstanding, all rules that prescribe environmental
27 conditions or standards promulgated by the department of natural
28 resources, a board or a commission, pursuant to authorities

1 granted in this chapter and chapters 260, 278, 319, 444, 643, and
2 644, RSMo, the hazardous waste management commission in chapter
3 260, RSMo, the state soil and water districts commission in
4 chapter 278, RSMo, the petroleum storage tank insurance fund
5 board in chapter 319, RSMo, the land reclamation commission in
6 chapter 444, RSMo, the safe drinking water commission in this
7 chapter, the air conservation commission in chapter 643, RSMo,
8 and the clean water commission in chapter 644, RSMo, shall cite
9 the specific section of law or legal authority. The rule shall
10 also be based on the regulatory impact report provided in this
11 section.

12 2. The regulatory impact report required by this section
13 shall include:

14 (1) A report on the peer-reviewed scientific data used to
15 commence the rulemaking process;

16 (2) A description of persons who will most likely be
17 affected by the proposed rule, including persons that will bear
18 the costs of the proposed rule and persons that will benefit from
19 the proposed rule;

20 (3) A description of the probable qualitative and
21 quantitative impact of the proposed rule, including environmental
22 and economic costs and benefits;

23 (4) The probable costs to the agency and to any other
24 agency of the implementation and enforcement of the proposed rule
25 and any anticipated effect on state revenue;

26 (5) A comparison of the probable costs and benefits of the
27 proposed rule to the probable costs and benefits of inaction,
28 which includes both economic and environmental costs and

1 benefits;

2 (6) A determination of whether there are less costly or
3 less intrusive methods for achieving the proposed rule;

4 (7) A description of any alternative method for achieving
5 the purpose of the proposed rule that were seriously considered
6 by the department and the reasons why they were rejected in favor
7 of the proposed rule;

8 (8) An analysis of both short-term and long-term
9 consequences of the proposed rule;

10 (9) An explanation of the risks to human health, public
11 welfare, or the environment, addressed by the proposed rule,
12 including an estimate of the impact of risk;

13 (10) The identification of the sources of scientific
14 information used in evaluating the risk and a summary of such
15 information;

16 (11) A description and impact statement of any
17 uncertainties and assumptions made in conducting the analysis on
18 the resulting risk estimate;

19 (12) A description of any significant countervailing risks
20 that may be caused by the proposed rule; and

21 (13) The identification of alternative regulatory
22 approaches that will produce comparable human health, public
23 welfare, or the environmental outcomes and an estimate of their
24 relative benefits and costs.

25 3. The department, board, or commission shall develop the
26 regulatory impact report required by this section using peer
27 reviewed and published data.

28 4. The department, board, or commission shall publish in at

1 least one newspaper of general circulation, qualified pursuant to
2 chapter 493, RSMo, with an average circulation of twenty thousand
3 or more and on the department, board, or commission website a
4 notice of availability of any regulatory impact report conducted
5 pursuant to this section and shall make such assessments and
6 analyses available to the public by posting them on the
7 department, board, or commission website. The department, board,
8 or commission shall allow at least sixty days for the public to
9 submit comments and shall post all comments and respond to all
10 significant comments prior to promulgating the rule.

11 5. The department, board, or commission shall file a copy
12 of the regulatory impact report with the joint committee on
13 administrative rules concurrently with the filing of the proposed
14 rule pursuant to section 536.024, RSMo.

15 6. If the department, board, or commission fails to conduct
16 the regulatory impact report as required for each proposed rule
17 pursuant to this section, such rule shall be void.

18 7. Any other provision of this section to the contrary
19 notwithstanding, the department, board, or commission referenced
20 in subsection 1 of this section may adopt a rule, without
21 conducting a regulatory impact report if the director of the
22 department determines that immediate action is necessary to
23 protect human health, public welfare, or the environment;
24 provided, however, in doing so, the department, board, or
25 commission shall be required to provide written justification as
26 to why it deviated from conducting a regulatory impact report and
27 shall complete the regulatory impact report within one hundred
28 eighty days of the adoption of the rule.

1 8. The provisions of this section shall not apply if the
2 department adopts environmental protection agency rules and rules
3 from other applicable federal agencies without variance.

4 640.018. 1. The department of natural resources shall not
5 place in any permit any requirement, provision, stipulation, or
6 any other restriction which is not prescribed by regulation.

7 2. Prior to submitting a permit to public comment the
8 department of natural resources shall deliver such permit to the
9 permit applicant at the contact address on the permit application
10 for final review. In the interest of expediting permit issuance,
11 permit applicants may waive the opportunity to review draft
12 permits prior to public notice. The permit applicant shall have
13 ten days to review the permit for errors. Upon receipt of the
14 applicant's review of the permit, the department of natural
15 resources shall correct the permit where nonsubstantive drafting
16 errors exist. The department of natural resources shall make
17 such changes within ten days and submit the permit for public
18 comment. If the permit applicant is not provided the opportunity
19 to review permits prior to submission for public comment, the
20 permit applicant shall have the authority to correct drafting
21 errors in their permits after they are issued without paying any
22 fee for such changes or modifications.

23 3. In any matter where a permit is denied by the department
24 of natural resources pursuant to authorities granted in this
25 chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the
26 hazardous waste management commission in chapter 260, RSMo, the
27 state soil and water districts commission in chapter 278, RSMo,
28 the petroleum storage tank insurance fund board in chapter 319,

1 RSMo, the land reclamation commission in chapter 444, RSMo, the
2 safe drinking water commission in this chapter, the air
3 conservation commission in chapter 643, RSMo, and the clean water
4 commission in chapter 644, RSMo, such denial shall clearly state
5 the basis for such denial.

6 4. Once a permit or action has been approved by the
7 department, the department shall not revoke or change, without
8 written permission from the permittee, the decision for a period
9 of one year or unless the department determines that immediate
10 action is necessary to protect human health, public welfare, or
11 the environment.

12 643.078. 1. It shall be unlawful for any person to operate
13 any regulated air contaminant class A source, including any air
14 contaminant source which takes enforceable permit conditions to
15 limit potential emissions below one hundred tons per year of any
16 air contaminant, after August 28, 1992, without an operating
17 permit except as otherwise provided in sections 643.010 to
18 643.190.

19 2. At the option of the permit applicant, a single
20 operating permit shall be issued for a facility having multiple
21 air contaminant sources located on one or more contiguous tracts
22 of land, excluding public roads, highways and railroads, under
23 the control of or owned by the permit holder and operated as a
24 single enterprise.

25 3. Any person who wishes to construct or modify and operate
26 any regulated air contaminant source shall submit an application
27 to the department for the unified review of a construction permit
28 application [under] pursuant to section 643.075 and an operating

1 permit application [under] pursuant to this section, unless the
2 applicant requests in writing that the construction and operating
3 permit applications be reviewed separately. [The director shall
4 complete any unified review within one hundred and eighty days of
5 receipt of the request for a class B source.] For a class A
6 source, the unified review shall be completed within the time
7 period established in section 502 of the federal Clean Air Act,
8 as amended, 42 U.S.C. 7661.

9 4. As soon as the review process is completed for the
10 construction and operating permits and, if the applicant complies
11 with all applicable requirements of sections 643.010 to 643.190
12 and all rules adopted thereunder, the construction permit shall
13 be issued to the applicant. The operating permit shall be
14 retained by the department until validated.

15 5. Within one hundred and eighty days of commencing
16 operations, the holder of a construction permit shall submit to
17 the director such information as is necessary to demonstrate
18 compliance with the provisions of sections 643.010 to 643.190 and
19 the terms and conditions of the construction permit. The
20 operating permit retained by the department shall be validated
21 and forwarded to the applicant if the applicant is in compliance
22 with the terms and conditions of the construction permit and the
23 terms and conditions of the operating permit. The holder of a
24 construction permit may request a waiver of the one hundred and
25 eighty day time period and the director may grant such request by
26 mutual agreement.

27 6. If the director determines that an air contaminant
28 source does not meet the terms and conditions of the construction

1 permit and that the operation of the source will result in
2 emissions which exceed the limits established in the construction
3 permit, he shall not validate the operating permit. If the
4 source corrects the deficiency, the director shall then validate
5 the operating permit. If the source is unable to correct the
6 deficiency, then the director and the applicant may, by mutual
7 agreement, add such terms and conditions to the operating permit
8 which are deemed appropriate, so long as the emissions from the
9 air contaminant source do not exceed the limits established in
10 the construction permit, and the director shall validate the
11 operating permit. The director may add terms and conditions to
12 the operating permit which allow the source to exceed the
13 emission limits established in the construction permit. In such
14 a case, the director shall notify the affected public and the
15 commission shall, upon request by any affected person, hold a
16 public hearing upon the revised operating permit application.

17 7. Except as provided in subsection 8 of this section, an
18 operating permit shall be valid for five years from the date of
19 issuance or validation, whichever is later, unless otherwise
20 revoked or terminated pursuant to sections 643.010 to 643.190.

21 8. An applicant for a construction permit for an air
22 contaminant source with valid operating permit may request that
23 the air contaminant source be issued a new five-year operating
24 permit. The operating permit would be issued in the manner and
25 [under] pursuant to the conditions provided in sections 643.010
26 to 643.190 and would supersede any existing operating permit for
27 the source.

28 9. [The director shall take action within thirty days after

1 a request for validation of the operating permit and shall render
2 a decision within one hundred twenty days of receipt of a request
3 for issuance of an operating permit for a class B source.] The
4 director shall render a decision within the time period
5 established in section 502 of the federal Clean Air Act, as
6 amended, 42 U.S.C. 7661, for a class A source. Any affected
7 person may appeal any permit decision, including failure to
8 render a decision within the time period established in this
9 section, to the commission.

10 10. The director may suspend, revoke or modify an operating
11 permit for cause.

12 11. The director shall not approve an operating permit if
13 he receives an objection to approval of the permit from the
14 United States Environmental Protection Agency within the time
15 period specified [under] pursuant to Title V of the Clean Air
16 Act, as amended, 42 U.S.C. 7661, et seq.

17 12. The director shall enforce all applicable federal
18 rules, standards and requirements issued [under] pursuant to the
19 federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., and
20 shall incorporate such applicable standards and any limitations
21 established pursuant to Title III into operating permits as
22 required [under] pursuant to Title V of the federal Clean Air
23 Act, as amended, 42 U.S.C. 7661, et seq.

24 13. Applicable standards promulgated by the commission by
25 rule shall be incorporated by the director into the operating
26 permit of any air contaminant source which has, on the effective
27 date of the rule, at least three years remaining before renewal
28 of its operating permit. If less than three years remain before

1 renewal of the source's operating permit, such applicable
2 standards shall be incorporated into the permit unless the permit
3 contains a shield from such new requirements consistent with
4 Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661,
5 et seq.

6 14. The holder of a valid operating permit shall have
7 operational flexibility to make changes to any air contaminant
8 source, if the changes will not result in air contaminant
9 emissions in excess of those established in the operating permit
10 or result in the emissions of any air contaminant not previously
11 emitted without obtaining a modification of the operating permit
12 provided such changes are consistent with Section 502(b)(10) of
13 the federal Clean Air Act, as amended, 42 U.S.C. 7661.

14 15. An air contaminant source with a valid operating permit
15 which submits a complete application for a permit renewal at
16 least six months prior to the expiration of the permit shall be
17 deemed to have a valid operating permit until the director acts
18 upon its permit application. The director shall promptly notify
19 the applicant in writing of his action on the application and if
20 the operating permit is not issued state the reasons therefor.

21 16. The applicant may appeal to the commission if an
22 operating permit is not issued or may appeal any condition,
23 suspension, modification or revocation of any permit by filing
24 notice of appeal with the commission within thirty days of the
25 notice of the director's response to the request for issuance of
26 the operating permit.

27 17. Any person who obtains a valid operating permit from a
28 city or county pursuant to the authority granted in section

1 643.140 shall be deemed to have met the requirements of this
2 section.

3 Section 1. No city, county, or other political subdivision
4 of the state of Missouri shall impose a requirement for financial
5 responsibility on owners or operators of underground or above
6 ground petroleum storage tanks. Beginning August 28, 2003, the
7 provisions of this section shall fully preempt any such local
8 financial responsibility requirements which were enacted after
9 December 31, 2002.

10 Section 2. In letting contracts for the performance of any
11 job or service for the removal or clean up of waste tires
12 pursuant to chapter 260, RSMo, the department of natural
13 resources shall, in addition to the requirements of sections
14 34.073 and 34.076, RSMo, and any other points awarded during the
15 evaluation process, give to any vendor that meets one or more of
16 the following factors a five percent preference and ten bonus
17 points for each factor met:

18 (1) The bid is submitted by a vendor that has resided or
19 maintained its headquarters or principal place of business in
20 Missouri continuously for the four years immediately preceding
21 the date on which the bid is submitted;

22 (2) The bid is submitted by a nonresident corporation
23 vendor that has an affiliate or subsidiary that employs at least
24 twenty state residents and has maintained its headquarters or
25 principal place of business in Missouri continuously for the four
26 years immediately preceding the date on which the bid is
27 submitted;

28 (3) The bid is submitted by a vendor that resides or

1 maintains its headquarters or principal place of business in
2 Missouri and, for the purposes of completing the bid project and
3 continuously over the entire term of the project, an average of
4 at least seventy-five percent of such vendor's employees are
5 Missouri residents who have resided in the state continuously for
6 at least two years immediately preceding the date on which the
7 bid is submitted. Such vendor must certify the residency
8 requirements of this subdivision and submit a written claim for
9 preference at the time the bid is submitted;

10 (4) The bid is submitted by a nonresident vendor that has
11 an affiliate or subsidiary that employs at least twenty state
12 residents and has maintained its headquarters or principal place
13 of business in Missouri and, for the purposes of completing the
14 bid project and continuously over the entire term of the project,
15 an average of at least seventy-five percent of such vendor's
16 employees are Missouri residents who have resided in the state
17 continuously for at least two years immediately preceding the
18 date on which the bid is submitted. Such vendor must certify the
19 residency requirements of this subdivision and submit a written
20 claim for preference at the time the bid is submitted;

21 (5) The bid is submitted by any vendor that provides
22 written certification that the end use of the tires collected
23 during the project will be for fuel purposes or for the
24 manufacture of a useable good or product.

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2	David Klindt	Peter Myers